

**THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI**

UNITED STATES OF AMERICA, <u>ex rel.</u>)	
Cori Rigsby, et al.,)	
)	
Plaintiff,)	Civil No. 1:06cv433LTS-RHW
)	
v.)	
)	
STATE FARM INS. CO., et al.)	
)	
Defendants.)	
)	

**UNITED STATES' MOTION FOR RECONSIDERATION OF ORDER DISMISSING
DEFENDANT FORENSIC ANALYSIS AND ENGINEERING CORP.**

The United States respectfully requests that this Court reconsider its order of July 29, 2010 granting the motion to dismiss filed by defendant Forensic Analysis and Engineering Corp. (FAEC).¹ The United States requests that this Court vacate that order and deny FAEC's motion to dismiss, without prejudice, because the Government has not approved FAEC's proposed settlement and cannot do so in its current form.

The False Claims Act (FCA) expressly provides (in pertinent part) that a *qui tam* suit "may be dismissed only if ... the Attorney General give[s] written consent to the dismissal." 31 U.S.C. § 3730(b)(1). The mere absence of an express objection by the Attorney General is not sufficient to permit dismissal, even where a relator and a defendant otherwise agree.

Reconsidering dismissal and denying FAEC's motion without prejudice will permit the Government to discuss and restructure certain problematic aspects of the proposed settlement

¹ Having declined to intervene, the United States is not a party to this suit, but it remains the real party in interest. If the Court deems it necessary, the United States asks that this motion also be construed as a motion to intervene for the limited purpose of seeking reconsideration of this Court's July 29 Order.

with the parties in a way that will be acceptable to the Government and potentially more advantageous to the parties. The Government is prepared to enter promptly into such discussions with the parties and will report back to the Court promptly.

The Government regrets that it did not have its opposition to FAEC's motion to dismiss on file before the Court's July 29 Order. The United States respectfully notes, however, that at the time the Court issued its July 29 Order, the Government's time to submit a brief in opposition to FAEC's motion to dismiss had not yet expired. *See* Local Rule 7(b)(4) and FRCP, Rule 6(d).

Accordingly, the Government requests that this Court, upon reconsideration, vacate its July 29 Order and deny FAEC's motion to dismiss without prejudice. A memorandum of points and authorities and a proposed order accompany this motion

Respectfully submitted,

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Dated: August 9, 2010

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion for Reconsideration has been sent via CM-ECF electronic service, to all parties, on August 9, 2010.

/s/ Felicia C. Adams
FELICIA C. ADAMS

